



Comptroller General  
of the United States

Washington, D.C. 20548

146730

## Decision

**Matter of:** Computer Hut International, Inc.--  
Reconsideration

**File:** B-248408.2

**Date:** May 20, 1992

Jim Spinner, Esq., Service, Gasser & Kerl, for the protester.  
Catherine M. Evans, Esq., and David Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Protest filed at least 4 months after protester first learned of protest basis properly was dismissed as untimely; protester's ongoing effort to seek resolution of the dispute with the agency and to collect corroborating evidence does not toll General Accounting Office timeliness requirements.

### DECISION

Computer Hut International, Inc. requests reconsideration of our April 24, 1992, dismissal of its protest against various actions surrounding request for quotations (RFQ) No. 6696, issued by EG&G Idaho, Inc. on behalf of the Department of Energy for computers. We dismissed the protest as untimely because it was not filed within 10 days after the protester knew of its protest basis, as required by our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1992).

We deny the request.

In its initial protest, Computer Hut primarily argued that EG&G had engaged in improper technical leveling, by requesting best and final offers, thereby allowing an offeror that had submitted a technically unacceptable proposal to become eligible for award, instead of making award to Computer Hut based on its low-priced, technically acceptable initial offer. In addition, Computer Hut alleged that the award was improper because the awardee's offered product did not meet a solicitation requirement for Federal Communications Commission (FCC) Class B compliance. Our decision found that Computer Hut's protest was untimely because the actions complained of took place on or before the July 31, 1991, award date, yet Computer Hut did not file a protest until April 20, 1992. We also noted that Computer

Hut's informal pursuit of these issues between August 1991 and February 1992 did not toll our timeliness requirements. See Allied-Signal, Inc.--Recon., B-234555.2, July 3, 1991, 91-2 CPD ¶ 19.

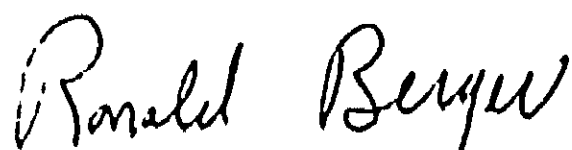
Under our Bid Protest Regulations, to obtain reconsideration the requesting party must either show that our prior decision contains errors of fact or law, or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a). Computer Hut has not met this standard.

Computer Hut maintains that its protest was timely because its basis for protest did not arise until it had completed "information gathering" and obtained corroborating evidence from the agency. Correspondence submitted with Computer Hut's protest, however, shows that the firm had the information it needed to file its protest long before the protest was filed. For example, on August 12, 1991, the agency sent Computer Hut a chronological list of events surrounding the procurement; this document informed Computer Hut that it had submitted the low-priced, technically acceptable initial proposal. Computer Hut responded on August 21, expressing its concern that EG&G had improperly failed to make award to Computer Hut based on its initial proposal. On December 12, Computer Hut wrote to the agency to confirm a prior telephone conversation during which Computer Hut had informed the agency that the awardee's product did not have FCC Class B certification. Thus, the record clearly established that Computer Hut was aware of its protest grounds months before it filed its protest on April 20; the protest therefore was untimely. 4 C.F.R. § 21.2(a)(2).

Computer Hut notes that Federal Acquisition Regulation (FAR) § 33.102(c)(1) encourages parties to seek resolution of protestable issues with the contracting agency before filing a protest with our Office, and argues that it properly filed its protest with our Office only after the agency failed to provide an acceptable response to its concerns. This argument is without merit. While the FAR encourages resolution of protestable issues at the agency level, it is not inconsistent with our Regulations in this regard, since it likewise affords protesters a limited period of time in which to protest. Specifically, FAR § 33.103 mirrors our Regulations in providing a 10-working day time period for filing protests of other than apparent solicitation improprieties with the agency. Thus, neither the FAR nor

our Regulations contemplate protracted negotiations (or "information gathering") with the agency before filing a protest.

The request for reconsideration is denied.

A handwritten signature in cursive script, reading "Ronald Berger".

Ronald Berger  
Associate General Counsel